

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In The Matter of)	
)	
Wireless Telecommunications Bureau:)	CC DOCKET NO. 94-102
Rules Concerning Public Safety Answering)	DA 01-1623
Point Requests for Phase II Enhanced 911)	

**COMMENTS
OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION**

The National Telephone Cooperative Association (NTCA) hereby submits comments in response to the Wireless Telecommunications Bureau's (WTB's) request for comment¹ on whether it should clarify or amend its rule concerning the process by which a Public Safety Answering Point (PSAP) makes a valid request for Phase II enhanced 911 (E911) service from a wireless carrier.² Upgrading a network for Phase II E911 is a costly, burdensome endeavor that hits the small, rural carriers especially hard. NTCA believes that the only way to protect small carriers from unnecessary expense is to clarify or amend the Commission's rule to require PSAPs to be capable of receiving and utilizing the data elements associated with Phase II E911 service at the time they request service.

NTCA is a national trade association representing more than 500 small and rural local exchange carriers.³ All of NTCA's members are "rural telephone companies" as

¹ Wireless Telecommunications Bureau Seeks Further Comment on the Commission's Rules Concerning Public Safety Answering Point Requests for Phase II Enhanced 911, Public Notice, CC Docket No. 94-102, DA 01-1623 (July 10, 2001).

² 47 C.F.R. §20.18(j)

³ About half of NTCA's members are organized as subscriber owned cooperatives.

defined in the Telecommunications Act of 1996 (the Act).⁴ Most of NTCA's members also provide wireless service in rural areas. These companies' customer bases range from less than 100 to more than 50,000. One half of NTCA member companies have less than 2,500 subscribers. Because these wireless carriers have relatively few customers over which to spread the cost of governmental mandates, any regulation or request that involves equipment upgrades can be detrimental. Given the downturn in the economy, it is especially important to these small carriers that they allocate resources and deploy facilities only as needed. The only way to ensure that small, rural carriers do not make the upgrades unnecessarily is to require that PSAPs be actually capable of receiving and utilizing the data elements associated with the service at the time they request service.

NTCA agrees that the Commission's rule as written may be capable of more than one interpretation and it requires some clarification. The Commission's current rule requires that wireless carriers that choose a network-based Phase II E911 solution provide the service within six months of receiving a valid request from a PSAP. There remains a question about at what point does a PSAP make a valid request for service. Guidance on this matter will help carriers and PSAPs avoid contentious discussions and proceedings to ascertain the Commission's intent.

However, even as written, it's clear that it was intended that PSAPs be able to utilize Phase II E911 before a carrier is required to provide the service. To find otherwise, would mean that a carrier may spend hundreds of thousands of dollars on a white elephant. The City of Richardson, Texas proposes that a PSAP makes a valid request for Phase II E911 merely by informing the carrier that the necessary equipment upgrades will be finalized by the PSAP prior to the delivery of the service by the carrier.

⁴ 47 U.S.C. § 153(37).

The Commission proposes a compromise, that a PSAP makes a valid request by showing 1) that it has funding available; 2) that it has purchase orders with vendors; and 3) that it has made arrangements with local exchange carriers to supply the necessary trunking, the ALI database, and any other necessary facilities or capabilities. NTCA submits that the only way to protect small, rural carriers and their customers from unnecessary and wasted expense is to actually require PSAPs to be capable of receiving and utilizing the data elements associated with Phase II E911 before the six month period by which the carrier must provide the service begins to run.

The problems with the Richardson proposal are obvious. There is no guarantee, or even assurance, that the PSAP can or will follow through on its plan to have the necessary equipment upgrades in place within 6 months of the request for service. The Commission's compromise proposal attempts to provide some level of assurance to the wireless carriers, but funding can, and often does, fall through and a promise by an equipment vendor's salesperson is no guarantee that the vendor can or will deliver. Even if a PSAP provides the assurance that the FCC proposes, events outside the PSAP's control may prevent the PSAP from implementing Phase II within the six month period. The Commission's compromise proposal does not prevent PSAPs from delaying their deployment. In such event, there is no assurance that compensation will be due to carriers that have made upgrades to accommodate the PSAP's request for service. While defaults may be tolerable for larger entities, they may be devastating for a small carrier.

The cost of requiring small, rural wireless carriers to provide Phase II E911 service is enormous. It's a wasted expense if the PSAP is unable to receive and utilize the data elements. If a PSAP requests Phase II E911 service, the carrier must provide it.

That point is not debated. NTCA's position merely causes the PSAP to wait a few months for that service. A delay of a few months is a marginal consideration when compared to the potential harm to a carrier providing a service that cannot be used.

I. COMMENTS IN RESPONSE TO THE INITIAL REGULATORY FLEXIBILITY ANALYSIS

As is described more fully above, the costs associated with Phase II E911 are especially burdensome to small, rural wireless carriers. The only way to ensure that these small carriers do not waste precious resources providing a service that cannot be utilized is to require PSAPs to be actually capable of receiving and utilizing the data elements associated with the service at the time they request service. The burden placed on a small PSAP because of a requirement such as this is nonexistent. The PSAP has to make the upgrade whether it may make the request for service six months before it plans to be capable of receiving E911 service or at the time it is actually capable of receiving the service. NTCA's position merely gives the wireless carrier a few extra months to perform its obligation with an actual guarantee that the effort is not wasted.

If the Commission moves forward and adopts the Richardson proposal or some sort of compromise, it should establish separate compliance requirements for small wireless carriers that take into account their size and the limited resources available to them. The only logical rule for small carriers requires that PSAPs be actually capable of utilizing the service before the six month compliance period begins for small wireless carriers.

II. CONCLUSION

Phase II E911 is an expensive endeavor. Small wireless carriers should be protected from unnecessary expense and effort. The Commission should require PSAPs

to be capable of receiving and utilizing the data elements associated with Phase II E911
before they may request service from a carrier.

Respectfully submitted,

National Telephone Cooperative Association

By: /s/ L. Marie Guillory
L. Marie Guillory

By: /s/ Jill Canfield
Jill Canfield

Its Attorneys

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203

July 25, 2001

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 94-102, DA 01-1623 was served on this 25th day of July 2001 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail C. Malloy

Gail C. Malloy

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8B201
Washington, D.C. 20554

International Transcription Service
Federal Communications Commission
445 12th Street, S.W., Room CYB400
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8B115
Washington D.C. 20554

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Peter Wolfe
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, Room 3-A101
Washington, D.C. 20554

Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Jason C. Marshall, Esq.
Peter G. Smith, Esq.
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, D.C. 20554